

# Marcus & Associates

Patents • Trade Marks • Designs • Copyrights  
*Patent & Trade Mark Agents*

Martin J. Marcus • Associates: T. Adams, Achmed N. Sadik

Suite #309-225 Metcalfe St., Ottawa, Ontario and London, Ontario • Post Office Box 8721, Station "T", Ottawa, Ontario, Canada K1G 3J1

Tel: (613) 232-2685 • Fax: (613) 232-8702

August 17, 1998

Honorable Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231  
U.S.A.

Attention: Leonard Smith

Re: Serial No.: 08/765,584  
International Filing Date: 06/26/95  
Applicant: HELMUT KUBISIAK  
Title: DETECTOR FOR A MEASURING DEVICE  
Docket No.: PORT012

Sir:

## PETITION FOR REVIVAL PURSUANT TO § 700.7.1103(c)

In answer to the Notification of Abandonment dated July 1, 1998, Applicant respectfully petitions the Patent Office to revive the present application pursuant to 700.7.1103(c). In support of this Petition, Applicant encloses the following papers providing a paper trail of correspondence with the Patent Office:

- 1) A copy of the Transmittal Letter and the Patent Office receipt stamp dated December 17, 1996;
- 2) Our letter dated 30 January 1997 enclosing a copy of the signed Declaration and Power of Attorney and Verified Small Entity Statement;
- 3) Our letter dated 16 May 1997 enclosing a copy of claims 1-13 to overcome the objection that "the translation is defective in that the number of claims in the International Application and the number of claims in the translation are not the same"; a Declaration and Power of Attorney signed by the inventor; a Verified Small Entity Statement; an Assignment document, and the necessary processing fees of \$65.00 and \$40.00, a total of \$105.00 along with a return of Form PCT/DO/EO/905 and Form PCT/DO/EO/913, and the Patent Office receipt stamp dated May 16, 1997;
- 4) A copy of our FAX transmission to Lawan Fletcher dated 16 July 1997 enclosing a copy of the signed covering letter requested.

#7  
1000 c'd PCT/PTO 18 AUG 1998

RECEIVED

14 OCT 1998

Legal Staff  
International Division

RECEIVED

AUG 18 1998

PATENT EXTENSION  
A/C PATENTS

It was believed that the application was therefore in good standing, and it was with surprise that we received Form PCT/DO/EO/909 advising that this application was abandoned for failure to reply to Form PCT/DO/EO/910 which was allegedly mailed 03 Feb 98. We did not receive that FORM which was said to have been mailed 03 Feb 98.

To establish that we did not receive said form, we wish to advise you that the docketing procedure at our Office is as follows:

When a report from a Patent Office is received, it is hand written on a green card, and a "bring forward" date noted on that card as well as on the file cover. A copy of the outside cover of the file folder and of the green card is attached.

It will be noted that the requirement to file missing parts was noted as being brought forward to June 16/97. The notation to bring forward of 16 Dec 1997 was to file the Information Disclosure Statement (IDS) which was done on 16 Mar 98, and the card was taken "out of diary".

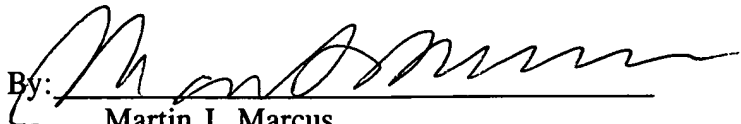
It will also be noted that there was NO entry referring to a Notification of Defective Response received in Feb 1998, for which a "bring forward" date in April 1998 would have been entered.

From these facts, it is clear that Form PCT/DO/EO/910 mailed 03 Feb 98 was never received by this Office.

Accordingly, it is submitted that this Petition should be granted.

Respectfully

HELMUT KUBISIAK

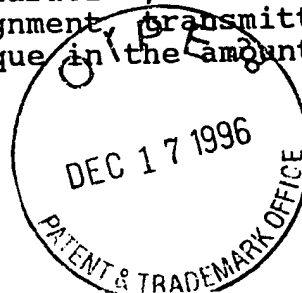
By:   
Martin J. Marcus  
Reg. 18,823

MARCUS & ASSOCIATES  
P.O. Box 8721, Station "T"  
Ottawa, Ontario, Canada  
K1G 3J1

THE PATENT OFFICE DATE STAMP HEREON WILL  
ACKNOWLEDGE RECEIPT OF THE FOLLOWING:

Applicant: Helmut Kubisiak  
Title: DETECTOR FOR A MEASURING DEVICE  
Our Ref: PORT012

Enclosures: U.S. Patent Application  
including signed Declaration, Small  
Entity form and Assignment Transmittal  
letter including cheque in the amount of  
\$495.00



FORM PTO-120 (6-7-79)		U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE (ATTORNEY'S DCKET NUMBER)	
TRANSMITTAL LETTER TO THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)			PORT012
INTERNATIONAL APPLICATION NO. PCT/EP95/01985	INTERNATIONAL FILING DATE 26 May 1995	PRIORITY DATE CLAIMED 20 June 1994	
TITLE OF INVENTION: DETECTOR FOR A MEASURING DEVICE			
APPLICANT(S) FOR DO/EO/US Helmut Kubisiak			
Applicant herewith submits to the United States Designated/Elected Office (DO/EO/US) the following items under 35 U.S.C. 371:			
1. <input checked="" type="checkbox"/> This express request to immediately begin national examination procedure (35 U.S.C. 371(n)).			
2. <input checked="" type="checkbox"/> The U.S. National Fee (35 U.S.C. 371(c)(1)) and other fees as follows:			
CLAIMS	(1) FOR	(2) NUMBER FILED	(3) NUMBER EXTRA
TOTAL CLAIMS	19	0	X 22
INDEPENDENT CLAIMS	2	0	X 80
MULTIPLE DEPENDENT CLAIM(S) (if applicable)		+	
BASIC NATIONAL FEE (37 CFR 1.492(a)(1)-(4)):			
<input type="checkbox"/> For filing with EPO or JPO search report (37 CFR 1.492(a)(5)).....		\$ 910.00	910.00
<input type="checkbox"/> International preliminary examination fee paid to USPTO (37 CFR 1.482)		\$640.00	
<input type="checkbox"/> No international preliminary examination fee paid to USPTO (37 CFR 1.482) but international search fee paid to USPTO (37 CFR 1.445(a)(2))..		\$710.00	
<input type="checkbox"/> Neither international preliminary examination fee (37 CFR 1.482) nor international search fee (37 CFR 1.445(a)(2)) paid to USPTO.....		\$950.00	
<input type="checkbox"/> International preliminary examination fee paid to USPTO (37 CFR 1.482) and all claims satisfied provisions of PCT Articles 33(2)-33(4)...		\$90.00	
Surcharge of \$130.00 for furnishing the National fee or oath or declaration later than <input type="checkbox"/> 20 <input type="checkbox"/> 30 months from the earliest claimed priority date (37 CFR 1.492(e)).			0:00
TOTAL OF ABOVE CALCULATIONS			= 910.00
Reduction by 1/2 for filing by small entity, if applicable. Affidavit must be filed also. (Note 37 CFR 1.9, 1.27, 1.28).			455.00
SUBTOTAL			+ 455.00
Processing fee of \$130.00 for furnishing the English translation later the months from the earliest claimed priority date (37 CFR 1.492(f)). <input type="checkbox"/> 20 <input type="checkbox"/> 30			
TOTAL NATIONAL FEE			\$
Fee for recording the enclosed assignment (37 CFR 1.21(h)).			+ 40.00
TOTAL FEES ENCLOSED			\$ 495.00
a. <input checked="" type="checkbox"/> A check in the amount of \$ 495.00 to cover the above fees is enclosed			
b. <input type="checkbox"/> Please charge my Deposit Account No. _____ in the amount of \$ _____ to cover the above fees.			
c. <input type="checkbox"/> A duplicate copy of this sheet is enclosed.			
The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. _____. A duplicate copy of this sheet is enclosed.			

# Marcus & Associates

Patents • Trade Marks • Designs • Copyrights  
*Patent & Trade Mark Agents*

Martin J. Marcus • Associates: T. Adams, R. Craig Armstrong • Of counsel: Serge Anissimoff, Achmed N. Sadik

Suite #309-225 Metcalfe St., Ottawa, Ontario and London, Ontario • Post Office Box 8721, Station "T", Ottawa, Ontario, Canada K1G 3J1

Tel: (613) 232-2685 • Fax: (613) 232-8702

Docket No. PORT012

30 January 1997

Honorable Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Re: Applicant: Helmut Kubisiak  
Filed: December 17, 1996  
Title: DETECTOR FOR A MEASURING DEVICE

Sir:

Further to our letter of 17 December 1996, we now enclose the following signed documents:

Declaration and Power of Attorney

Verified Small Entity Statement

Respectfully submitted,

Helmut Kubisiak

By \_\_\_\_\_  
Martin J. Marcus,  
Reg. No. 18,823

Martin J. Marcus  
MARCUS & ASSOCIATES  
P.O. Box 8721, Station "T"  
Ottawa, Ontario, Canada  
K1G 3J1  
Phone: 613-232-26852

RECEIVED

AUG 18 1998

PATENT & TRADE MARKS  
AC PATENTS

RULE 63(37 C.F.R.1.63)  
DECLARATION AND POWER OF ATTORNEY  
FOR PATENT APPLICATION  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

As a below named inventor, I hereby declare that my residence, post office address and citizenship are as stated below next to the name, and I believe I am the original first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

DETECTOR FOR A MEASURING DEVICE

the specification of which

(X) is attached hereto.

( ) was filed on \_\_\_\_\_ as U.S. Appln. Serial No. \_\_\_\_\_.

( ) was filed as PCT Intl. Appln. No. PCT/\_\_\_\_\_ on \_\_\_\_\_.

and if applicable to U.S. or PCT appln.) was amended on \_\_\_\_\_.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above. I acknowledge the duty to disclose information which is material to the examination of this application in accordance with 37C.F.R.1.56(a). I hereby claim foreign priority benefits under 35U.S.C.119/365 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed or, if no priority is claimed, before the filing date of this application:

Prior Foreign Application(s):  
Application Number

Country

Day/Month/Year Filed

P 44 23 338.8

DE

June 20, 1994

I hereby claim the benefit under 35 U.S.C.120/365 of all prior United States and PCT international applications listed above or below and, insofar as the subject matter of each of the claims of this application is not disclosed in such prior applications in the manner provided by the first paragraph of 35U.S.C.112, I acknowledge the duty to disclose material information as defined in 37C.F.R.1.56(a) which occurred between the filing date of the prior applications and the national or PCT international filing date of this application.

Prior U.S./PCT Application(s):  
Application Serial No.

Day/Month/Year Filed

Status: patented,  
pending, abandoned

PCT/EP95/01985

26/May/1995

pending

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that wilful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such wilful false statements may jeopardize the validity of the application or any patent issued thereon. And I hereby appoint Martin J. Marcus (Reg. No. 18823) of Marcus & Associates, P.O. Box 8721, Station "T", Ottawa, Ontario, Canada, K1G 3J1, telephone number (613)232-2685 (to whom all communications are to be directed), to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith and with the resulting patent.

(1) Inventor's Signature Helmut Hel Kubisiak Date 06 DEC 1996

Inventor's Name (typed)	<u>Helmut</u>	<u>Kubisiak</u>	<u>DE</u>
	First	Middle	Citizenship

Residence Neuenb rger Strasse 30/1, D-75335 Dobel (DE)

Post Office Address Neuenb rger Strasse 30/1, D-75335 Dobel (DE)

M&amp;W-5

# Marcus & Associates

Patents • Trade Marks • Designs • Copyrights  
*Patent & Trade Mark Agents*

Martin J. Marcus • Associates: T. Adams, Achmed N. Sadik • Of counsel: Serge Anissimoff

Suite #309—225 Metcalfe St., Ottawa, Ontario and London, Ontario • Post Office Box 8721, Station "T", Ottawa, Ontario, Canada K1G 3J1

Tel: (613) 232-2685 • Fax: (613) 232-8702

Docket No. PORT012

16 May 1997

Honorable Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Re: Serial No: 08/765,584  
International Filing Date: 05/26/95  
Applicant: Helmut Kubisiak  
Title: DETECTOR FOR A MEASURING DEVICE

RECEIVED  
MAY 18 1998  
PATENT EXTENSION  
A/C PATENTS

Sir:

In answer to the Office Letter of May 2, 1997 (copy attached) and further to our letter of 17 December 1996, we now enclose the following documents:

- 1) A copy of claims 1-13 to overcome the objection that "the translation is defective in that the number of claims in the International Application and the number of claims in the translation are not the same";
- 2) A Declaration and Power of Attorney signed by the inventor;
- 3) A Verified Small Entity Statement;
- and 4) An Assignment Document.

The necessary processing fees of \$65.00 and \$40.00, a total of \$105.00 are also attached.

Respectfully submitted,

Helmut Kubisiak

By \_\_\_\_\_  
Martin J. Marcus,  
Reg. No. 18,823

Martin J. Marcus  
MARCUS & ASSOCIATES  
P.O. Box 8721, Station "T"  
Ottawa, Ontario, Canada  
K1G 3J1  
Phone: 613-232-26852





UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: ASSISTANT COMMISSIONER FOR PATENTS  
Box PCT  
Washington, D.C. 20231

#2

U.S. APPLICATION NO. 08/765,584	FIRST NAMED APPLICANT KUBISIAK	ATTY. DOCKET NO. H PORT012
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MARCUS & ASSOCIATED  
225 METCALFE STREET  
SUITE 309  
K2P1P9 OTTAWA, ONTARIO, CANADA  
CANADA

5611

INTERNATIONAL APPLICATION NO.

PCT/KP95/01985

I.A. FILING DATE

PRIORITY DATE

05/26/95

06/20/94

DATE MAILED:

05/02/97

**NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)**

1. The following items have been submitted by the applicant or the IB to the United States Patent and Trademark Office as ☐ a Designated Office (37 CFR 1.494),

☒ an Elected Office (37 CFR 1.495):

☒ U.S. Basic National Fee.

☒ Copy of the international application in:

☒ a non-English language.

☐ English.

☒ Translation of the international application into English.

☒ Oath or Declaration of inventor(s) for DO/EO/US.

☐ Copy of Article 19 amendments.

☐ Translation of Article 19 amendments into English.

☐ The International Preliminary Examination Report in English and its Annexes, if any.

☐ Translation of Annexes to the International Preliminary Examination Report into English.

☐ Preliminary amendment(s) filed \_\_\_\_\_ and \_\_\_\_\_.

☐ Information Disclosure Statement(s) filed \_\_\_\_\_ and \_\_\_\_\_.

☒ Assignment document.

☐ Power of Attorney and/or Change of Address.

☐ Substitute specification filed \_\_\_\_\_.

☐ Verified Statement Claiming Small Entity Status.

☒ Priority Document.

☒ Copy of the International Search Report ☒ and copies of the references cited therein.

☐ Other:

2. The following items MUST be furnished within the period set forth below in order to complete the requirements for acceptance under 35 U.S.C. 371:

☐ a. Translation of the application into English. Note a processing fee will be required if submitted later than the appropriate 20 or 30 months from the priority date.

☒ The current translation is defective for the reasons indicated on the attached Notice of Defective Translation.

☒ b. Processing fee for providing the translation of the application and/or the Annexes later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(f)).

☐ c. Oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date.

☐ The current oath or declaration does not comply with 37 CFR 1.497(a) and (b) for the reasons indicated on the attached PCT/DO/EO/917.

☐ d. Surcharge for providing the oath or declaration later than the appropriate 20 or 30 months from the priority date (37 CFR 1.492(e)).

3. Additional claim fees of \$ \_\_\_\_\_ as a ☐ large entity ☐ small entity, including any required multiple dependent claim fee, are required. Applicant must submit the additional claim fees or cancel the additional claims for which fees are due. See attached PTO-875.

ALL OF THE ITEMS SET FORTH IN 2(a)-2(d) AND 3 ABOVE MUST BE SUBMITTED WITHIN ONE MONTH FROM THE DATE OF THIS NOTICE OR BY ☐ 21 OR ☒ 31 MONTHS FROM THE PRIORITY DATE FOR THE APPLICATION, WHICHEVER IS LATER. FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.

The time period set above may be extended by filing a petition and fee for extension of time under the provisions of 37 CFR 1.136(a).

4. Translation of the Annexes MUST be submitted no later than the time period set above or the annexes will be cancelled. Note processing fee will be required if submitted later than 30 months from the priority date.

5. ☐ The Article 19 amendments are cancelled since a translation was not provided by the appropriate 20 (37 CFR 1.494(d)) or 30 (37 CFR 1.495(d)) months from the priority date.

Applicant is reminded that any communication to the United States Patent and Trademark Office must be mailed to the address given in the heading and include the U.S. application no. shown above. (37 CFR 1.5)

**A copy of this notice MUST be returned with this response.**

Enclosed: ☐ PCT/DO/EO/917  
☐ PTO-875

☒ Notice of Defective Translation

Elias D. Reed  
Patent Specialist

FORM PCT/DO/EO/905 (September 1996)

Telephone: (703) 305-3659



UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Box PCT  
Washington, D.C. 20231

#2

08/765584

US APPLICATION NO.

ATTACHMENT TO FORM PCT/DO/EO/

08/765584

KUBISTAK

II

PORTO12

5611

PCT/EP95/01985

RECEIVED & ASSOCIATED  
PCT/DO/EO/913

NOTICE OF DEFECTIVE TRANSLATION

05/18/95

RECEIVED OTTAWA, ONTARIO, CANADA

05/25/95

06/20/94

The received translation is defective because:

05/02/97

- ☐ (1) The text in the drawings has not been properly translated;
- ☒ (2) The number of claims in the International Application and the number of claims in the translation are not the same;
- ☐ (3) The translation of the International Application is incomplete as a number of pages are missing;
- ☐ (4) Other.

*Eless D. Reed*  
Eless D. Reed  
Paralegal Specialist  
Telephone: (703) 305-3659

MARCUS & ASSOCIATES  
225 METCALFE ST., SUITE 309,  
OTTAWA, ONT. K2P 1P9

U.S. DOLLAR ACCOUNT

0063

PAY TO THE  
ORDER OF

*Commissioner of Patents*

*16 MAY* 19 *97*

*one hundred and five*

*100* \$ *105.00*

RE *PORT 012* # *5022*

U.S. FUNDS DOLLARS



Canadian Imperial Bank of Commerce  
119 SPARKS STREET  
OTTAWA, ONTARIO K1P 5B5

MARCUS & ASSOCIATES

PER

*[Signature]*

⑈000063⑈ ⑈00006⑈010⑈ 02⑈44317⑈

THE PATENT OFFICE DATE STAMP HEREON  
ACKNOWLEDGE RECEIPT OF THE FOLLOWING:

U.S. Serial No: 08/765,584  
Applicant: Helmut Kubisiak  
Our File: PORT 012



Enclosures: Office Letter of May 2,  
1997; claims 1-13; Declaration & Power of  
Attorney; Small Entity Statement;  
Assignment & Recordation form; cheque # *0063*  
in the amount of \$65.00 and \$40.00 *2105*

*Marcus & Associates*

*225 Metcalfe Street, Suite 309  
Ottawa, Ontario, Canada  
K2P 1P9*

*Telephone: (613) 232-2685  
Fax Number: (613) 232-8702*

FACSIMILE TRANSMISSION

DATE:

*16*  
~~15~~ July 1997

TO:

Lawan Fletcher  
U.S. Patent and Trademark Office

From:

Martin J. Marcus

FAX NUMBER:

703 308 7124

PAGES INCLUDING COVER: 2

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**MESSAGE:**

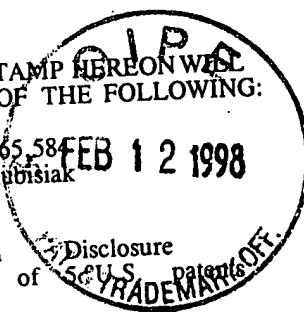
Re: Serial No: 08/765,584  
International Filing Date: 05/26/95  
Applicant: Helmut Kubisiak  
Title: DETECTOR FOR A MEASURING DEVICE  
Our File: PORT012

In accordance with your telephone request, attached is a signed covering letter.

PATENT OFFICE DATE STAMP HEREON WITH  
ACKNOWLEDGMENT RECEIPT OF THE FOLLOWING:

U.S. Serial No: 08/765,584  
Applicant: Helmut Kubisiak  
Our File: PORT 012

Enclosures: Information  
Statement and copies of





UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Address: ASSISTANT COMMISSIONER FOR PATENTS  
Box PCT  
Washington, D.C. 20237

U.S. APPLICATION NO.	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/765584	KUBISIAK	H
		PORT012
INTERNATIONAL APPLICATION NO.		
PCT/EP95/01985		
FILING DATE		PRIORITY DATE
26 MAY 95		20 JUN 94
DATE MAILED: JUL - 1 1998		

MARCUS & ASSOCIATED  
225 METCALFE STREET  
SUITE 309  
OTTAWA, ONTARIO, CANADA, K2P1P 9

### NOTIFICATION OF ABANDONMENT

The United States Patent and Trademark Office in its capacity as

☐ a Designated Office (37 CFR 1.494), ☒ an Elected Office (37 CFR 1.495), has made the following determination:

- ☐ Applicant's letter of express abandonment received \_\_\_\_\_ is in compliance with CFR 1.138 and is hereby acknowledged.
- ☐ Applicant has failed to provide the full U.S. Basic National Fee by ☐ 20 months (37 CFR 1.494(b)(2)), ☐ 30 months (37 CFR 1.495(b)(2)).
- ☐ Applicant has failed to respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed \_\_\_\_\_ within the time period set therein.
- ☐ Applicant has failed to properly respond to the notification of MISSING REQUIREMENTS (Form PCT/DO/EO/905), mailed \_\_\_\_\_ within the time period set therein. See the attached NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916).
- ☒ Other.  
Applicant failed to properly respond to the NOTIFICATION OF DEFECTIVE RESPONSE (Form PCT/DO/EO/916), mailed 03 Feb 98.

Therefore, the above identified application failed to meet the requirements of 35 U.S.C 371 and 37 CFR ☐ 1.494, ☒ 1.495 and is ABANDONED AS TO THE UNITED STATES OF AMERICA.

Eless D. Brown, Paralegal

Telephone: 703-305-3659

FORM PCT/DO/EO/909 (May 1993)

CLIENT: Porto Portland Water FILE: PORTO 123

SUBJECT: U.S. NATE N. Hawn - Battery Naval

PURPOSE	DUE DATE	DIARY DATE	PURPOSE	DUE DATE	DIARY DATE
		<u>May 17/97</u>			
<u>Missing Parts</u>	<u>June 12/97</u>				
<u>done 16</u>	<u>MAY 97-16 DEC 97</u>				
<u>Nm down / DS</u>	<u>16 MAR 98</u>				
	<u>out of drug</u>				

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